



BOARD OF REGISTRATION FOR FORESTERS



From the Chairman

With this issue of the newsletter we are beginning a new series of articles called "It's The Law." We have been including an article in each newsletter for the past two or three years on different sections of the registration law. Most significant provisions of the law have been highlighted. The series beginning this issue will deal with provisions in the "Engine Bill" which was passed by the 1996 Legislature. The Board of Registration for Foresters, along with 38 other occupational and professional boards, became part of the S.C. Department of Labor, Licensing, and Regulation when state government was restructured. The "Engine Bill" provides the framework within which all of those boards and commissions operate.

Many of you are aware of the legislation introduced in the last legislative session and provided your thoughts, concerns and recommendations. Members of the board met with several different interest groups and proposed amendments. The bill is in the Senate's Fish, Game and Forestry Committee, where it will be taken up again when the legislature convenes in January. The main holdup on the legislation now is language dealing with agreements and contracts. The board is working with various interest groups to try to come up with language that will be agreeable to most of the forestry community and Senate committee members.

Jerry P. Henderson
Chairman

It's the Law

Title 40, Chapter 1,
Code of laws of S.C., 1976 as
amended covers "Board Regula-
tions of Professions
and Occupations."

40-1-70. (General
Powers and duties of
Regulatory Boards.)
The powers and duties
of regulatory boards
include, but are not
limited to:

- (1) determining the eligibility of applicants for examination and licensure;
- (2) examining applicants for licensure including, but not limited to:
 - (a) prescribing the subjects,

character, and manner of licensing examinations;

- (b) preparing, administering, and grading the examination or assisting in the selection of a contractor for the preparation, administration, or grading of the examination;
- (3) establishing criteria for issuing, renewing and reactivating the authorizations to practice of qualified applicants, including the issuance of active or permanent, temporary, limited, and inactive licenses, or other categories as may be created;



See *It's the Law* on page 3

Foresters Law Equal to All

Three cases have occurred in the past year where licensed foresters or reputable firms have been involved, in one way or another, with actions taken by the board as a result of alleged violations of the registration law. Unfortunately, a lot of misinformation and criticism of the board has been circulated through the forestry community as a result. (See the article on cease and desist orders on page 2 of this newsletter.)

A common complaint that the board hears is that it should be concentrating on the "pin-hooker" or those who would run some kind of scam on landowners in managing their forest lands. No one disagrees that this is one of the most serious threats to landowners in receiving fair treatment when marketing forest products. The board is well aware of the problem and is trying to address it in the only way it can.

The Registration of Foresters Law was written to regulate and license foresters. It does not regulate any other segment of the forestry community. The only parts of the registration law that can be used against these individuals are sections 120 (1) and 120 (2).

120 (1) reads:

"No person shall use in connection with his name or otherwise assume, use or advertise any title or description tending directly or indirectly to convey the impression that he is a registered forester, without first having been licensed and registered as a registered forester as provided in this chapter."

Section 120 (2) reads:

See *Foresters Law* on page 3

How are Cease and Desist Orders Issued?

Cease and desist orders may be issued by or in the name of the board when there is reason to believe that someone has violated or intends to violate the registration law. A recent order to a licensee for a minor violation has resulted in a lot of criticism of the board and a great deal of misinformation has been circulated. See the article "Foresters Law Equal to All" elsewhere in this issue of the newsletter.

Orders from the board are administrative orders issued under authority of the S.C. Code of Laws, 40-1-100. They are not judicial orders and are not the result of a hearing or trial. Board orders are the first official response to an investigation that indicates a violation has occurred. They must describe specifically the violation and apply only to what is described in the order. Board orders do not deprive the respondent of due process. The first step of due process is to request a hearing before the board if the respondent believes actions addressed in the order are not a violation of the registration law. The full board can then hear the facts of the case and decide whether to modify, withdraw, or let the order stand.

The board has been criticized for not being fully aware of all the details of the case before the order was issued. However, there is a very good reason that the full board should not be fully involved at the beginning. Individual board members are in much the same situation as jurors when they are being selected to hear a case. If prospective jurors know any specifics of the case, they are disqualified from participating in it. In the same way, if board members have prior knowledge of a specific case, they cannot hear the respondents side or participate in deciding the case. If this occurs, the licensee has lost the first step in due process. The board will no longer be able to decide the case. The first level of appeal will then have to be before an administrative law judge.

One board member serves as a technical consultant to the investigator on each complaint to prevent all board members from becoming disqualified to hear a case. A licensee may be contacted by an investigator or otherwise become involved in an investigation and feel that he/she needs to talk to a member of the board. Licensees may call the board office at (803) 896-4496 and ask who the board consultant is for that case, and then talk to that board member. Licensees should not call other members of the board and discuss the investigation. By doing so, the licensee may do a real disservice to himself/herself or to another licensee by removing an opportunity to present a case to the board for decision, and thus force the case into court.

Reinstatement to Active Registration

Occasionally a licensee will allow his/her registration to lapse for a period of time and then decide to become registered again. The requirements for reinstatement to active registration vary depending on the length of time since registration lapsed. An individual wishing to have registration restored must complete the following requirements for continuing education in addition to other requirements that may be required by the board:

(a) Registration lapse of 1-3 years: Complete the CFE requirements for a minimum of one year prior to application for reinstatement.

(b) Registration lapse of 4-10 years: Complete the current CFE requirements for a minimum of two years credits during the 18 months preceding the application for reinstatement.

(c) Registration lapse of 11 or more years: Complete the examination required for initial licensing.

Recent Board Actions

The following individuals have been registered and issued a license to practice forestry in South Carolina:

Thomas Jeter
Richard Kernan
Philip Weigel
Danny Arnette Jr.
Jeffrey Barnhill
Timothy Cartner
James Lipscomb
Clifton McKinney
Michael Russell
Justin Woodard
Jim Benton
Lewis Levy
Richard Simonin
Kenneth Quinn
Francis Melfi

The following licenses have been re-instated:

Thomas Belser

Board Members

Jerry D. Henderson, chairman
Dr. Larry Nelson, vice chairman
Charles F. Moore, II, secretary
Don M. Handley
Dr. Robert Taylor
Raymond L. Boozer
Kenneth P. Funderburke, Jr.



This newsletter is a publication of the Board of Registration for Foresters and the South Carolina Department of Labor, Licensing and Regulation.

South Carolina Department of
Labor, Licensing and Regulation
Board of Registration for Foresters
110 Centerview Drive
PO Box 11329
Columbia, SC 29211-1329
(803) 896-4498



Foresters Law *Continued from page 1*

Board Meeting Schedule for 1998

Board meeting dates for 1998
have been scheduled as follows:

Jan. 8, 1998
April 16, 1998
Aug. 13, 1998
Dec. 10, 1998.

Meeting dates are subject to change. Those planning to attend a board meeting should call the board office a few days before the meeting to confirm the date.

Its the Law Continued from page 1

- (4) adopting a code of professional ethics appropriate to the profession or occupation which it licenses or otherwise regulates;
- (5) evaluating and approving continuing education course hours and programs;
- (6) conducting hearings on alleged violations of this article and regulations promulgated under this article;
- (7) resolving consumer complaints, where appropriate and possible;
- (8) disciplining persons licensed under this article in any manner provided for in this article;
- (9) promulgating regulations which have been approved by the director.

Wording of the provisions in Title 40 is rather general because it applies to 38 different boards and commissions. Some of the wording may not apply directly to each board or commission. An example in this section is item (3). The Board of Registration for Foresters does have the responsibility to establish criteria for issuing licenses, but our law does not provide for different categories of licenses.

"Except as specifically authorized in this section, no person shall engage in the practice of professional forestry as defined in this chapter or in any manner advertise or hold himself out as engaged in such practice without first being licensed as a registered forester under this chapter."

Over two dozen cases have been investigated or are currently under investigation, most of which have included allegations of violation of this section of the law. The actions taken by the board as a result of these investigations have ranged from an order to make changes in advertisements, to small fines, to referral for criminal investigation to appropriate agencies. Licensees and the forestry community should not expect the board to use the only tool available against the "pin-hooker" or scam artist and ignore its application to registered foresters.

The Board of Registration for Foresters has been in existence for almost 40 years and has been criticized most of that time for doing nothing. The board was almost abolished a few years ago as the result of a sunset review for doing nothing and having no record of any disciplinary action having ever been taken. It is ironic that now that the board is trying to do something, there is criticism and the desire on the part of some in the forestry community to repeal the registration law, and thus abolish the board.

Forestry is criticized almost daily for being "completely unregulated." Media stories and letters to the editor often make the point that forestry must have mandatory BMPs or other controls. Some states have passed forest practice acts that are very onerous. There are many people who would like to see more regulation of forest management in the state. The Registration of Foresters Law is one of the few that could be considered as the profession regulating itself. However, we can't have the attitude "enforce it against everyone else but don't let it bite me."

*By Jerry P. Henderson
Chairman*

We had a FACELIFT!



Check out LLR's new look for the "home page" on the world wide web.

LLR's page includes general information about the agency, and key data on individual programs. One feature is called "frequently asked questions."

The Public Information Office is now updating the "home page" on a regular basis. If you have ideas or suggestions, contact Donna Delia, 896-4377, or Lesia Shannon Kudelka, 896-4376.

Our address on the Internet is: <http://www.llr.sc.edu/>

SOUTH CAROLINA DEPARTMENT OF LABOR,
LICENSING AND REGULATION
BOARD OF REGISTRATION FOR FORESTERS
3600 FOREST DRIVE
P.O. BOX 11329
COLUMBIA, SC 29211-1329

Board Members

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Board-Approved Continuing Forestry Education Courses

University of Georgia Upcoming Courses

Herbicides in Forestry (11 hrs.) Nov. 4-5
Timber Income Tax (12 hrs.) Dec. 2-3
Georgia Forestry Symposium (12 hrs.)
Dec. 8-9

*Approved by the Georgia Real Estate
Appraisers Board and accepted by the Georgia
Real Estate Commission

For Program Information Contact:

Susan A. King
Continuing Forest Resource Education Office
Georgia Center for Continuing Education
The University of Georgia
Athens, GA 30602-3603
Phone: (706) 542-3063
Email: kings@gactr.uga.edu

Visit the Georgia Center Web Site
and register online.
[Http://www.gactr.uga.edu](http://www.gactr.uga.edu)



Alabama Region

**Shaping Perceptions: A Guide to Effective
Communication** (12 hrs.) Auburn,
Nov. 11-12

Forestry for Non-forestry Professionals....
Auburn, Dec. 2-3

The School of Forestry also conducts work-
shops at various locations in Louisiana.
For an updated schedule of programs in the
Louisiana Region, call (334) 844-1042.

NC State University Coming Events

Contact Kelley Duffield in the Forestry
Education Outreach Program (FEOP) for
additional information on the course content or
registration information:
Phone (919) 515-5572
Fax (919) 515-6883 or via email,
duffield@cfr.cfr.ncsu.edu

Website Expanded

The FEOP Homepage lists upcoming work-
shops, short courses and seminars. Visitors to
the website can click on listed events to get
details and registration information. Visit the
site: www.ces.ncsu.edu/nreos/forest/feop/feophome.html.